

REMARKS

In the Final Office Action, the Examiner rejected claims 318-338 under 35 U.S.C. § 112, first paragraph; rejected claims 318, 321-322, 324, and 339 under 35 U.S.C. § 112, second paragraph; rejected claims 339-357 under 35 U.S.C. § 112, first paragraph; rejected claims 318-357 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,998,270 to Tseung et al. ("*Tseung*"); and rejected claims 318-357 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Publication No. 2002/0110494 to Lemme et al. ("*Lemme*").

Claims 1-317 were previously cancelled. By this Reply, Applicant has amended claims 318, 319, 321, 322, 324, 326, 334, 336, 337, 339, 343, and 353. No new matter is added by this Reply.

I. REJECTION UNDER 35 U.S.C. § 112, ¶ 1

Applicant respectfully traverses the rejection of claims 318-338 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. (See Office Action at 3.) Specifically, the Examiner failed to located disclosure of "controllers" and controllers located "outside" of the network. (See Office Action at 3-4.) Applicant does not necessarily agree with this rejection, however, Applicant has amended the claims with respect to these recitations in order to clarify the claims. Accordingly, Applicant requests that the Examiner withdraw Section 112 rejection of claims 318-338 and allow the claims.

II. REJECTION UNDER 35 U.S.C. § 112, ¶ 2

Applicant respectfully traverses the rejection of claims 318-338 under 35 U.S.C. § 112, second paragraph, as being indefinite. (See Office Action at 4.) Specifically, the

Examiner contends that the term “outside” is unclear. As noted above, Applicant does not necessarily agree with this rejection, but has amended independent claim 318 to clarify the claim. Applicant has also amended claims 321 and 339 to clarify antecedent basis per the Examiner’s request. Accordingly, Applicant requests that the Examiner withdraw Section 112 rejection of claims 318-338 and allow the claims.

II. REJECTION UNDER 35 U.S.C. § 112, ¶ 1

Applicant respectfully traverses the rejection of claims 339-357 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. (See Office Action at 5.) Without acquiescing to the rejection, and solely to facilitate prosecution, Applicant amends claims 339-357 in response to the Office’s rejections. Accordingly, Applicant submits that the currently amended claims comply with the enablement requirement and respectfully requests that the Office withdraw the rejection of claims 339-357 under 35 U.S.C. § 112, first paragraph.

III. REJECTION UNDER 35 U.S.C. § 103

Applicant respectfully traverses the rejection of claims 318-357 under 35 U.S.C. § 103 as being unpatentable over *Tseung* at least because *Tseung* fails to disclose or suggest and the Office Action does not consider all of the elements of the claims.

Tseung discloses:

An automated staining system and a reagent container designed for use with the automated staining apparatus. The reagent container includes a reagent containment section capable of containing a volume of a reagent The staining apparatus may include one removable drawer for holding reagent containers and another removable drawer holding slides.

(Abstract.) *Tseung* also discloses a “robotic delivery system 22.” (Col. 3, lines 38-42.)

However, as can be seen in Fig. 3, in order to access the slides of *Tseung*, slide drawer 70 must be pulled out, which results in all of the slides being pulled out jointly. Similarly, in order to access the reagents of *Tseung*, reagent drawer 68 must be pulled out, which results in all of the reagents being pulled out jointly. Pulling the slides or reagents out of the device of *Tseung* would prevent processing. Accordingly, *Tseung* does not disclose or suggest and the Office Action does not consider “processing a first at least one sample with the robotic head of the at least one stainer based upon instructions received from at least one of the first computer or the second computer or both; and inserting at least one reagent or a second at least one sample into the at least one stainer without interrupting the processing,” as recited in independent claim 318. Similarly, *Tseung* does not disclose or suggest and the Office Action does not consider “processing a first at least one sample with the robotic head of the at least one stainer based upon information received from the laboratory information system; and inserting at least one reagent or a second at least one sample into the stainer without interrupting the processing,” as recited in independent claim 339.

For at least the aforementioned reasons, the Section 103 rejection of independent claims 318 and 339 should be withdrawn. Furthermore, the rejection of claims 319-338 and 340-357 should also be withdrawn, at least due to the dependence of these claims on one of independent claims 318 or 339, and based on their recitations of additional patentable subject matter.

Claims 318-357 were rejected under 35 U.S.C. § 103 as being unpatentable over *Lemme*. Applicant respectfully traverses this rejection at least because *Lemme* fails to

disclose or suggest and the Office Action does not consider all of the elements of the claims.

Lemme discloses a method and apparatus for an automated biological reaction system. (see Abstract). Specifically, *Lemme* discloses:

a system [that] is designed in modular pieces with higher functions performed by a host device and the execution of the staining operations performed by remote devices. Also, to reliably catalog data which is used by the automated biological reaction system, data is loaded to a memory device, which in turn is used by the operator to update the operator's databases. The generation of the sequence of steps for the automated biological reaction device based on data loaded by the operator, including checks to determine the ability to complete the run, is provided.

(Abstract.) *Lemme*, however, does not disclose or suggest, and the Office Action does not consider, “processing a first at least one sample with the robotic head of the at least one stainer based upon instructions received from at least one of the first computer or the second computer or both; and inserting at least one reagent or a second at least one sample into the at least one stainer without interrupting the processing,” as recited in independent claim 318. Similarly, *Lemme* does not disclose or suggest and the Office Action does not consider “processing a first at least one sample with the robotic head of the at least one stainer based upon information received from the laboratory information system; and inserting at least one reagent or a second at least one sample into the stainer without interrupting the processing,” as recited in independent claim 339.

For at least the aforementioned reasons, the Section 103 rejection of independent claims 318 and 339 should be withdrawn. Furthermore, the rejection of claims 319-338 and 340-357 should also be withdrawn, at least due to the dependence

of these claims on one of independent claims 318 or 339, and based on their recitations of additional patentable subject matter.

IV CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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